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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/014,112	12/11/2001	Harold Aaron Ludtke	SONY 3.0-020	3954
530	7590	06/13/2005	EXAMINER	
LERNER, DAVID, LITTENBERG, KRUMHOLZ & MENTLIK 600 SOUTH AVENUE WEST WESTFIELD, NJ 07090			CANGIALOSI, SALVATORE A	
			ART UNIT	PAPER NUMBER
			3621	

DATE MAILED: 06/13/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/014,112	LUDTKE ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Salvatore Cangialosi	3621	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 29 April 2005.
- 2a) This action is FINAL.                            2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1,2,5-10,12,14-52,67-104 and 106-123 is/are pending in the application.
- 4a) Of the above claim(s) 15-52,67-104 and 106-108 is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1,2,5-10,12,14 and 109-123 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | Paper No(s)/Mail Date: _____.   |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>4/18/05, 4/29/05</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|   | 6) <input type="checkbox"/> Other: _____.                                   |

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1. Claims 15-52, 67-104, 106-108 stand withdrawn from further consideration for reasons of record in paragraph 1 of the Office action dated 12/22/2004 and should be deleted. Applicants arguments dated 03/24/2005 are unpersuasive.

With respect to the IDS filed 4/29/05, the foreign patent documents and non-patent literature were not considered because copies were not provided. Patent document 3741214 dated 1/18/01 to Smith appears to be a mistake as to either date or patent number.

2. The following is a quotation of 35 U.S.C. § 103 which forms the basis for all obviousness rejections set forth in this Office action:

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Subject matter developed by another person, which qualifies as prior art only under subsection (f) or (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person.

3. Claims 1, 2, 5-10, 12, 14, 109-123 are rejected under 35 U.S.C. § 103 as being unpatentable over Pare, Jr et al (5838812) in view of Dulude et al (6310966) and Kawan (5796832).

Regarding claim 1, Pare, Jr et al (See abstract,

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Figs. 8-11, 24,25, Col. 11, lines 5-57, Col. 14, lines 32-64, Col. 15, lines 20-35, Col. 18, lines 5-55, claims 1, 4) disclose method for employing transaction employing a biometric input including intermediaries and transmission of verification substantially as claimed. The differences between the above and the claimed invention is the use of specific automatic transmission of a biometric input. It is noted that it is believed that the biometric parameter(See Col. 8, lines 50-55) are functionally equivalent to the claimed limitations and that the claim as drawn is readable on any the well established biometric based transaction methods. Dulude et al(See Fig. 4, Col. 5, lines 50-65, Col. 6, lines 1-25) show biometric inputs at a transaction point transmitted over a network. Kawan (See abstract, Figs. 1-4, 6, Col. 3, lines 1-30, Col. 4, lines 1-15, Col. 8, lines 50-55, claims 1, 5,19) show a method for wirelessly effecting a transaction employing a biometric input. It would have been obvious to the person having ordinary skill in this art to provide a similar arrangement for Pare, Jr et al because the biometric inputs are conventional functional equivalents with respect to the claim limitations and their employment and comparison is a necessary component of validation and use in a transaction method. Regarding the device limitations of claim 2, Kawan (See Claim 5) show cell phone which is a functional equivalent of the claim limitations. Regarding the device limitations of claim 3, Kawan (See Claim 31) show ATM which is a

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functional equivalent of the claim limitations. Regarding the information limitations of claim 5, Kawan show point of sale terminal data access which is a functional equivalent of the claim limitations. Regarding the information limitations of claim 6, Kawan show point of sale terminal data access which is a functional equivalent of the claim limitations. Regarding the information limitations of claim 7, Kawan(See Col. 4, lines 55-65) show credit authorization terminal and card which is a functional equivalent of the claim limitations. Regarding the database limitations of claim 8, Dulude et al(element 66) show a database which is a functional equivalent of the claim limitations. Regarding the database limitations of claim 9, Dulude et al(element 66) show a database which is a functional equivalent of the claim limitations. Regarding the fingerprint limitations of claim 10, Kawan (See Col. 8, lines 50-55) show a fingerprint which is a functional equivalent of the claim limitations. Regarding the database comparison limitations of claim 12, Dulude et al(See abstract and element 66) show a database comparison based on biometric generation input and comparison against a stored value which is a functional equivalent of the claim limitations. Regarding the visual limitations of claim 14, Dulude et al(See claim 8) show a database comparison based on biometric generation input and comparison against a stored value which is a functional equivalent of the claim limitations. Regarding the database

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comparison limitations of claim 109, Dulude et al (See abstract and element 66) show a database comparison based on biometric generation input and comparison against a stored value which is a functional equivalent of the claim limitations. Regarding claim 110, Pare, Jr et al (See abstract, Figs. 8-11, 24,25, Col. 11, lines 5-57, Col. 14, lines 32-64,Col. 15, lines 20-35, Col. 18, lines 5-55, claims 1, 4) disclose means for employing transaction employing a biometric input including intermediaries and transmission of verification substantially as claimed. The differences between the above and the claimed invention is the use of specific automatic transmission of a biometric input. It is noted that it is believed that the biometric parameter (See Col. 8, lines 50-55) are functionally equivalent to the claimed limitations and that the claim as drawn is readable on any the well established biometric based transaction methods. Dulude et al (See Fig. 4, Col. 5, lines 50-65, Col. 6, lines 1-25) show biometric inputs at a transaction point transmitted over a network. Kawan (See abstract, Figs. 1-4, 6, Col. 3, lines 1-30, Col. 4, lines 1-15, Col. 8, lines 50-55, claims 1, 5,19) show a means for wirelessly effecting a transaction employing a biometric input. It would have been obvious to the person having ordinary skill in this art to provide a similar arrangement for Pare, Jr et al because the biometric inputs are conventional functional equivalents with respect to the claim limitations and their employment and comparison is a necessary component of

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validation and use in a transaction method. Regarding the device limitations of claim 112, Kawan (See Claim 5) show cell phone which is a functional equivalent of the claim limitations.

Regarding the information limitations of claim 113, Pare, Jr et al (See abstract, Figs. 8-11, 24,25, Col. 11, lines 5-57, Col. 14, lines 32-64,Col. 15, lines 20-35, Col. 18, lines 5-55, claims 1, 4) disclose means for employing transaction employing a biometric input including intermediaries and transmission of verification including user entered PIN(see Col. 6, lines 10-40) that is a functional equivalent of the claim limitations.

Regarding the information limitations of claim 114, Pare, Jr et al (See abstract, Figs. 8-11, 24,25, Col. 11, lines 5-57, Col. 14, lines 32-64,Col. 15, lines 20-35, Col. 18, lines 5-55, claims 1, 4) disclose means for employing transaction employing a biometric input including intermediaries and transmission of verification including user entered PIN(see Col. 6, lines 10-40) that is a functional equivalent of the claim limitations.

Regarding the information limitations of claim 115, Pare, Jr et al (See abstract, Figs. 8-11, 24,25, Col. 11, lines 5-57, Col. 14, lines 32-64,Col. 15, lines 20-35, Col. 18, lines 5-55, claims 1, 4) disclose means for employing transaction employing a biometric input including intermediaries and transmission of verification including user entered account data (see Col. 6, lines 10-40) that is a functional equivalent of the claim limitations. Regarding the database limitations of claim 117,

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Dulude et al(element 66) or Pare, Jr et al (See Col. 68, lines 30-55) show a database which is a functional equivalent of the claim limitations. Regarding the fingerprint limitations of claim 118, Pare, Jr et al (See Col. 13, lines 10-20) show a fingerprint scanner which is a functional equivalent of the claim limitations. Regarding the verification limitations of claim 119, Pare, Jr et al (See Fig. 20C) show a verification packet which is a functional equivalent of the claim limitations. Regarding the visual limitations of claim 120, Dulude et al(See claim 8) show a database comparison based on biometric generation input and comparison against a stored value which is a functional equivalent of the claim limitations. Regarding the verification limitations of claim 121, Pare, Jr et al (See Fig. 20C) show a verification packet which is a functional equivalent of the claim limitations. Regarding the database limitations of claim 122, Dulude et al(element 66) or Pare, Jr et al (See Col. 68, lines 30-55) show a database which is a functional equivalent of the claim limitations. Regarding claim 123, Pare, Jr et al (See abstract, Figs. 8-11, 24,25, Col. 11, lines 5-57, Col. 14, lines 32-64,Col. 15, lines 20-35, Col. 18, lines 5-55, claims 1, 4) disclose means for employing transaction employing a biometric input including intermediaries and transmission of verification substantially as claimed. The differences between the above and the claimed invention is the use of specific automatic transmission of a biometric input. It is noted that it is

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believed that the biometric parameter(See Col. 8, lines 50-55) are functionally equivalent to the claimed limitations and that the claim as drawn is readable on any the well established biometric based transaction methods. Dulude et al(See Fig. 4, Col. 5, lines 50-65, Col. 6, lines 1-25) show biometric inputs at a transaction point transmitted over a network. Kawan (See abstract, Figs. 1-4, 6, Col. 3, lines 1-30, Col. 4, lines 1-15, Col. 8, lines 50-55, claims 1, 5,19) show a means for wirelessly effecting a transaction employing a biometric input. It would have been obvious to the person having ordinary skill in this art to provide a similar arrangement for Pare, Jr et al because the biometric inputs are conventional functional equivalents with respect to the claim limitations and their employment and comparison is a necessary component of validation and use in a transaction method.

Any inquiry concerning this communication should be directed to Salvatore Cangialosi at telephone number **(571) 272-6927**. The examiner can normally be reached 6:30 AM to 5:00 PM, Tuesday through Friday. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Trammell, can be reached at **(571) 272-6712**.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on

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Business Center (EBC) at 866-217-9197 (toll-free).



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ART UNIT 222